
STATUTORY INSTRUMENTS

2001 No. 3067

NATIONAL ASSISTANCE SERVICES, ENGLAND

**The National Assistance (Residential Accommodation)
(Disregarding of Resources) (England) Regulations 2001**

Made - - - - *10th September 2001*
Laid before Parliament *10th September 2001*
Coming into force - - *1st October 2001*

The Secretary of State for Health, in exercise of powers conferred by section 21(2A) of the National Assistance Act 1948(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the National Assistance (Residential Accommodation) (Disregarding of Resources) (England) Regulations 2001 and shall come into force on 1st October 2001.

(2) In these Regulations—

“the 2001 Act” means the Health and Social Care Act 2001(2);

“the Act” means the National Assistance Act 1948; and

“the Assessment Regulations” means the National Assistance (Assessment of Resources) Regulations 1992(3);

(3) These Regulations extend to England only(4).

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- (1) 1948 c. 29; subsections (2A) and (2B) of section 21 were substituted by section 53 of the Health and Social Care Act 2001 (c. 15).
- (2) 2001 c. 15.
- (3) S.I. 1992/2977; S.I. 1992/2977 has been amended by S.I. 1993/964; S.I. 1993/2230; S.I. 1994/825; S.I. 1994/2386; S.I. 1995/858; S.I. 1995/3054; S.I. 1996/602; S.I. 1997/485; S.I. 1998/497; S.I. 1998/1730; S.I. 2001/58; S.I. 2001/1066; and S.I. 2001/1124.
- (4) Although section 21(2A) of the National Assistance Act 1948 extends to Wales, the Secretary of State does not have power to make regulations under that section in respect of Wales, see article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), which transfers all the functions of the Secretary of State under the 1948 Act, so far as they are exercisable in relation to Wales, to the National Assembly for Wales. (As respects Scotland, section 21 of the 1948 Act was repealed, in so far as it extended to Scotland, by section 95(2) of, and Schedule 9 to, the Social Work (Scotland) Act 1968 (c. 49)).

Disregarding of resources

2.—(1) For the purposes of section 21(2A) of the Act, a local authority shall disregard so much of the person’s capital as does not exceed the capital limit for the purposes of section 22 of the Act.

(2) For the purposes of paragraph (1) of this regulation, subject to paragraph (3)—

- (a) a person’s capital shall be calculated in accordance with the Assessment Regulations in the same way as if he were a person for whom accommodation is proposed to be provided as mentioned in subsection (3) of section 22 of the Act and whose ability to pay for the accommodation falls to be assessed for the purposes of that subsection; and
- (b) “the capital limit for the purposes of section 22 of the Act” means the amount for the time being prescribed in the Assessment Regulations as the amount which a resident’s capital (calculated in accordance with those Regulations) must not exceed if he is to be assessed as unable to pay for his accommodation at the standard rate.

(3) In a case where the local authority has entered or has agreed to enter into a deferred payment agreement (as provided for in section 55 of the 2001 Act), when making the calculation specified in paragraph (2)(a) of this regulation, the local authority shall give effect to paragraph 1A of Schedule 4 to the Assessment Regulations, as if that paragraph read as follows—

“**1A.** In the case of a resident who becomes a permanent resident on or after 1st October 2001 the value of any dwelling which he would otherwise normally occupy as his only or main residence.”

Signed by authority of the Secretary of State for Health

10th September 2001

Jacqui Smith
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Health and Social Care Act 2001 (c. 15) amended section 21 of the National Assistance Act 1948 (c. 29) by substituting subsections (2A) and (2B). The new subsections provide that regulations may specify certain of the person's resources which the local authority shall disregard when deciding for the purposes of section 21(1)(a) or (aa) whether or not the person needs care and attention which is not otherwise available to him.

These Regulations specify the resources which are to be disregarded for that purpose. Subject to one exception, a person's capital up to the capital limit as specified in the National Assistance (Assessment of Resources) Regulations 1992 is to be disregarded. In the exceptional case, when the person is someone with whom the local authority have agreed to enter into a deferred payment agreement, the local authority shall also disregard that person's main or only home.